

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

MICHAEL HOWARD,
PLAINTIFF

CIVIL ACTION NO.: _____

VERSUS

DISTRICT JUDGE _____

UNITED STATES OF AMERICA,
DEFENDANT

MAGISTRATE JUDGE _____

COMPLAINT

COMES NOW, MICHAEL HOWARD, through undersigned counsel of record, a person of the full age of majority, who with respect represents to the Court the following:

1.

Made defendant in this petition is the following:

THE UNITED STATES OF AMERICA, as the proper defendant in a civil action brought pursuant to the Federal Tort Claims Act. **THE UNITED STATES OF AMERICA** is named as a defendant because of the negligence of its employees/servants/agents who worked for it through the United States Veteran's Administration. **THE UNITED STATES OF AMERICA** is also named as a defendant because of an unreasonably dangerous defect and/or unreasonably dangerous ruin in its building.

2.

Jurisdiction is conferred upon this Court by the Federal Tort Claims Act.

3.

On or about July 19, 2010, plaintiff, MICHAEL HOWARD, was participating in a drug and alcohol rehabilitation program at the Overton Brooks VA Medical Center, a Veterans Affairs hospital located at 510 East Stoner Avenue, Shreveport, Caddo Parish, Louisiana 71101. During

the session, the ceiling of the room in which the program was being conducted began to leak, and the instructor, an employee/servant/agent of THE UNITED STATES OF AMERICA through the Overton Brooks VA Medical Center , instructed the plaintiff, MICHAEL HOWARD, and some other participants to move a television and a chalkboard because they were getting wet due to the leak. MICHAEL HOWARD was told to help move the chalkboard, despite knowledge of the instructor that he would have to walk on a wet and unreasonably slippery floor to move the chalkboard. As a result, while the plaintiff, MICHAEL HOWARD, was trying to walk around the television, he slipped and fell in a puddle of water that formed from the dripping ceiling, which was not easily visible because the floor was glossy. As a result of the fall the plaintiff suffered severe injuries to his knee.

4.

The instructor should not have instructed the plaintiff to move the chalkboard near an unreasonably dangerous condition such as a puddle of water, and the instructor is guilty of fault, breach of duties and negligence, for which THE UNITED STATES OF AMERICA is liable under the Federal Tort Claims Act.

5.

The UNITED STATES OF AMERICA is also liable to the plaintiff, MICHAEL HOWARD, because it had a defect and/or state of ruin in its building, of which it had both actual and constructive knowledge prior to the plaintiff being injured by or due to the defect and/or state of ruin. The roof of the Overton Brooks VA Medical Center in Shreveport, Louisiana, leaked and the employees/servants/agents of the UNITED STATES OF AMERICA knew or should have known that it leaked well in advance of the plaintiff's falling in water which was caused to

be on the floor by said leak. Nevertheless, the UNITED STATES OF AMERICA failed to timely perform all acts that a reasonable or prudent person would have taken under the same or similar circumstances. Further, the UNITED STATES OF AMERICA failed to omit all acts that a reasonable or prudent person would have omitted under the same or similar circumstances.

6.

Plaintiff, MICHAEL HOWARD, filed an administrative claim on July 15, 2011. This claim was denied on March 7, 2012. Plaintiff filed a request for reconsideration on July 5, 2012, and this was denied on January 7, 2013. Therefore, plaintiff has exhausted his administrative remedies under the Federal Tort Claims Act and this Court has jurisdiction.

7.

The fall which resulted from the fault, breach of duties and negligence of THE UNITED STATES OF AMERICA and its employees/servants/agents caused severe injuries to plaintiff, MICHAEL HOWARD.

8.

Plaintiff was completely free from any and all negligence, fault or breach of duties which in any manner contributed to his injuries and damages. Plaintiff did not do anything or fail to do anything that caused his injuries or damages. Plaintiff's injuries and damages were caused by the sole fault, breach of duties and negligence of THE UNITED STATES OF AMERICA, which is liable for the plaintiff's injuries and damages.

9.

The fault, breach of duties and negligence of THE UNITED STATES OF AMERICA consists of the following nonexclusive particulars:

- A. Instructing the plaintiff to move the chalkboard having actual and constructive knowledge that the floor was wet, slippery and unreasonably dangerous;
- B. Failing to have the puddle cleaned and/or dried before having the plaintiff move the chalkboard;
- C. Failing to properly and timely warn the plaintiff about the slippery condition of the floor;
- D. Having a defect or ruin in its building and failing to timely remedy same so that plaintiff's injuries and damages could be prevented;
- E. Having actual and/or constructive knowledge of a defect or ruin in its building and failing to timely remedy same so that plaintiff's injuries and damages could be prevented;
- F. And further, in failing to exercise due care and caution as a reasonable and prudent person would have done under the same or similar circumstances.

10.

The terrible fall caused severe, painful and disabling injuries to the plaintiff, MICHAEL HOWARD.

11.

Because the plaintiff is not trained in medical terminology, he cannot describe the exact injuries sustained by him in precise medical terms in the same manner as can physicians. However, plaintiff will show that he sustained severe and excruciating injuries to his right knee.

12.

At the time of this wrongful act, your petitioner was physically and mentally capable of

competing in the job market. Because of the injuries that your petitioner suffered, he has suffered both past and future economic damages including but not limited to lost wages, lost earning capacity, lost economic opportunity and lost household services.

13.

Plaintiff states that as a result of these wrongful acts caused by the fault, breach of duties, and negligence of THE UNITED STATES OF AMERICA, for which it is liable, he has suffered the following damages:

- A. Past and future physical pain and suffering as may appear reasonable in the premises;
- B. Past and future mental pain and anguish as may appear reasonable in the premises;
- C. Past and future physical disability as may appear reasonable in the premises;
- D. Past and future loss of enjoyment of life as may appear reasonable in the premises;
- E. Past and future humiliation and embarrassment as may appear reasonable in the premises;
- F. Past and future physical impairment as may appear reasonable in the premises;
- G. Past and future inconvenience as may appear reasonable in the premises;
- H. Risk of traumatically induced arthritis as may appear reasonable in the premises;
- I. Past and future medical, hospital, doctor, and/or chiropractic bills as may appear reasonable in the premises;
- J. Past and future expenses for drugs, medicines and orthopedic devices as may appear reasonable in the premises;
- K. Past and future expenses for physical therapy as may appear reasonable in the premises;
- L. Past and future economic damages including but not limited to lost wages, lost earning capacity, lost economic opportunity and lost household services.

14.

Your petitioner will be required to call at the trial on the merits, medical experts and other expert witnesses to establish the extent of his injuries and damages. Your petitioner is entitled to have these expenses taxed as additional costs of Court.

W H E R E F O R E, your petitioner prays that:

1.

The defendant, THE UNITED STATES OF AMERICA, be served with a copy of this petition and cited to appear and answer same;

2.

After all legal delays and due proceedings had, that there be judgment in favor of plaintiff, MICHAEL HOWARD, and against the defendant for the total amount of damages, together with legal interest thereon from the date of judicial demand until paid, together with all costs of these proceedings to include the costs for all expert witnesses of any description, including but not limited to economic and medical experts;

3.

For all other relief, both general and equitable, necessary in the premises.

THE LAW OFFICE OF ALLEN COOPER, L.L.C.
551 Kings Highway
Shreveport, Louisiana 71104
Telephone: (318) 865-5291
Telecopier: (318) 865-5120

BY: s/J. Allen Cooper, Jr.
J. ALLEN COOPER, JR. Bar Roll No.: 20762
ATTORNEY FOR PETITIONER,
MICHAEL HOWARD

PLEASE PROVIDE THE APPROPRIATE SERVICE DOCUMENTS